



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

January 20, 1998

Ms. Jennifer Soldano  
Associate General Counsel  
Texas Department of Transportation  
125 East 11th Street  
Austin, Texas 78701-2483

OR98-0186

Dear Ms. Soldano:

You ask whether certain information is subject to required public disclosure under the Open Records Act (the "act"), chapter 552 of the Government Code. Your request was assigned ID# 111742.

The Texas Department of Transportation (the "department") received a request for a "record on the complainant who phoned in a complaint against Roger's Well Service, Inc." You contend that the information is excepted from required public disclosure based on Government Code section 552.101. You have submitted the requested document and we now review the claimed exception.


Section 552.101 of the Government Code excepts from required public disclosure information considered to be confidential by law, either constitutional, statutory, or by judicial decision. You contend that the identity of the individual who filed a complaint against Roger's Well Service is excepted from public disclosure pursuant to the "informer's privilege" as incorporated into section 552.101 of the Government Code. The informer's privilege aspect of section 552.101 protects the identity of persons who report violations of the law to officials responsible for enforcing those laws. Although the privilege ordinarily applies to the efforts of law enforcement agencies, it can apply to administrative officials with a duty of enforcing particular laws. Attorney General Opinion MW-575 (1982); Open Records Decision Nos. 285 (1981), 279 (1981); *see also* Open Records Decision No. 208 (1978). The department is responsible for administering and enforcing motor carrier registration under V. T. C. S., article 6675c. Specifically, section 6 of that article gives the department the authority to impose administrative penalties against a motor carrier who fails to register. We agree that the department may withhold all information that serves to identify the informer as coming within the informer's privilege.<sup>1</sup>

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<sup>1</sup>Because part of the purpose of the privilege is to prevent retaliation against informants, the privilege does not apply when the informant's identity is known to the individual who is the subject of the complaint. *See* Open Records Decision No. 208 (1978). In reaching our conclusion here, we assume that the complainant's identity as such is not known to representatives of Roger's Well Service.

" We are resolving this matter with this informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and may not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Janet I. Monteros  
Assistant Attorney General  
Open Records Division

JIM/glg

Ref.: ID# 111742

Enclosures: Submitted documents

cc: Ms. Sue Pierce  
Secretary  
Roger's Well Service, Inc.  
500 West 5th  
Breckenridge, Texas 76424  
(w/o enclosures)